

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
LAREDO DIVISION

GUADALUPE RIOS,

Plaintiff,

v.

ASI LLOYDS,

Defendant.

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CIVIL ACTION NO. 5:15-cv-159

**DEFENDANT ASI LLOYDS' NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. § 1441, Defendant ASI Lloyds ("ASI") hereby removes the action styled and numbered, *Guadalupe Rios v. ASI Lloyds*, 2015CVF002110D4, currently pending in the 406th Judicial District Court of Webb County, Texas to the United States District Court for the Southern District of Texas, Laredo Division. For the reasons set forth below, removal of the state court action is proper under 28 U.S.C. §§ 1332, 1441, and 1446.

**I. THE STATE COURT ACTION**

1. On June 17, 2015, Guadalupe Rios ("Rios") filed her Original Petition in Cause No. 2015CVF002110D4 against ASI.

**II. ASI'S NOTICE OF REMOVAL IS TIMELY**

2. ASI was served with the Original Petition and citation on July 14, 2015. Accordingly, ASI files this Notice of Removal within the 30-day time period required by 28 U.S.C. § 1446(b).

**III. VENUE IS PROPER**

3. Venue is proper in the United States District Court for the Southern District of Texas, Laredo Division, under 28 U.S.C. §§ 124(a)(5) and 1441(a) because this district and division embrace the place in which the removed action has been pending.

## **PARTIES**

### **IV. BASIS FOR REMOVAL JURISDICTION**

4. Removal of this action is proper under 28 U.S.C. § 1441 because it is a civil action brought in a state court and the federal courts have original jurisdiction over the subject matter pursuant to 28 U.S.C. § 1332. Specifically, removal is proper because there is now, and was at the time this action was filed, complete diversity of citizenship between all Plaintiffs and all Defendants.

5. Rios is a Texas resident who resides in Webb County, Texas.

6. ASI was at the time this lawsuit was filed, and at the date of this Notice remains, an association of underwriters. The individual underwriters are as follows: Tanya J. Fjare, Trevor C. Hillier, Kevin R. Milkey, John F. Auer, Jr., Edwin L. Cortez, Mary F. Fournet, Philip L. Brubaker, Pat McCrink, Jeff Hannon and Angel Bostick. Each of these underwriters is a citizen of the State of Florida. “The United States Supreme Court has consistently held for over one hundred years that the citizenship of an unincorporated association [such as ASI Lloyds] is determined . . . solely by the citizenship of its members.”<sup>1</sup> Therefore, ASI Lloyds is not a citizen of the State of Texas.

7. Accordingly, there is now, and was at the time this action was filed, complete diversity between all plaintiffs, Rios, and all defendants, ASI.

### **V. AMOUNT IN CONTROVERSY**

8. If it is facially apparent that Rios’ claims exceed the jurisdictional amount, ASI’s burden is satisfied.<sup>2</sup>

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<sup>1</sup> See *Massey v. State Farm Lloyds Ins. Co.*, 993 F. Supp. 568, 570 (S.D. Tex. 1998); see also *Gore v. Stenson*, 616 F. Supp. 895, 898-899 (S.D. Tex. 1984) (recognizing years of Supreme Court precedent reaffirming the treatment of unincorporated associations for jurisdictional purposes)

<sup>2</sup> *Allen v. R & H Oil & Gas Co.*, 63 F.3d 1326, 1335 (5<sup>th</sup> Cir. 1999).

9. In her Original Petition, Rios seeks “monetary relief of more than \$100,000 but less than \$200,000.”<sup>3</sup>

10. Therefore, it is apparent that Rios’ claims exceed the amount required to support federal jurisdiction.

## **VI. COMPLIANCE WITH LOCAL RULE 81**

11. In accordance with 28 U.S.C. § 1446(a) and Rule 81 of the Local Rules of the Southern District of Texas, ASI files this Notice of Removal, accompanied by the following exhibits:

- a. All executed process in the case, attached hereto as **Exhibit A**.
- b. Plaintiffs’ Original Petition, attached hereto as **Exhibit B**.
- c. Defendant ASI’s Original Answer and Affirmative Defenses, attached hereto as **Exhibit C**.
- d. The state court docket sheet, attached hereto as **Exhibit D**.
- e. An index of matters being filed, attached hereto as **Exhibit E**.
- f. A list of all counsel of record, including addresses, telephone numbers, and parties represented, attached hereto as **Exhibit F**.

## **VII. JURY DEMAND**

12. Rios demanded a jury in the state court action.

## **VIII. CONCLUSION**

13. ASI will promptly file a copy of this Notice of Removal with the clerk of the state court where the action is pending.

14. Therefore, ASI hereby provides notice that this action is duly removed.

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<sup>3</sup> See Plaintiff’s Original Petition, attached as Exhibit B, page 15, paragraph 70.

Respectfully submitted,

**ZELLE HOFMANN VOELBEL & MASON LLP**

By: /s/ Todd M. Tippet

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**ATTORNEYS FOR DEFENDANT  
ASI LLOYDS**

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of this Notice of Removal has been served this 10th day of August, 2015, by electronic filing as follows:

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**ATTORNEYS FOR PLAINTIFF  
GUADALUPE RIOS**

/s/ Todd M. Tippet

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